

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2010-310-T - ORDER NO. 2010-637
SEPTEMBER 29, 2010

IN RE: Application of American Go Team Services,)	ORDER WAIVING
LLC d/b/a The Go Bus, 2257 Highway 378,)	NOTICE REQUIREMENT
Conway, South Carolina 29526 (Mailing)	AND GRANTING CLASS
Address: 420 Maplewood Circle, Conway,)	A CERTIFICATE OF
South Carolina 29526) (District 1) for a)	PUBLIC CONVENIENCE
Class A Certificate of Public Convenience)	AND NECESSITY
and Necessity)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the Application of American Go Team Services, LLC d/b/a The Go Bus (“The Go Bus” or “Applicant”) for a Class A Certificate of Public Convenience and Necessity for Operation of Motor Vehicle Carrier to transport passengers over regular routes and schedules, as defined by 26 S.C. Code Ann. Regs. 103-110. The Go Bus requests the Application be processed on an expedited basis based on the seasonal nature of its proffered services and accordingly seeks a waiver of 26 S.C. Code Ann. Regs. 103-132 requiring notice of the Application to be published.

In regard to the requested waiver, the Applicant asserts that adherence to Regulation 103-132 will result in missed opportunity and prohibit the advancement of the public service proposed to be provided by The Go Bus.

By its Application, The Go Bus requests to transport passengers over regular routes as follows:

BETWEEN CONWAY, SOUTH CAROLINA AND MYRTLE BEACH, SOUTH CAROLINA
OVER THE FOLLOWING ROUTES:

From Jackson Bluff Road to SC 544;

From Jackson Bluff Road to S-26-1121 via SC 544;

From SC 544 to US 501 via S-26-1121;

From S-26-1121 to US 17 via US 501;

From US 501 to Celebrity Circle via US 17;

From US 17 to Greens Boulevard;

From Celebrity Circle to 21st Avenue North; and

From 21st Avenue North to (reverse to start).

APPLICABLE LAW

1. S.C. Code Ann. § 58-23-220 (Supp. 2009) provides:

The Office of Regulatory Staff, upon order of the commission, may issue a certificate A in the following cases:

(1) to an applicant to operate in territory already served by any certificate holder under this chapter or any common carrier when the public convenience and necessity in such territory are not already being reasonably served by some other certificate holder or common carrier, provided such applicant propose to operate on a fixed schedule and to comply with the other provisions contained in Articles 1 to 11 of this chapter and the rules and regulations which may be made by the commission respecting holders of this class of certificates; and

(2) to an applicant for a certificate to operate upon a regular schedule in a territory not already served by the holder of a certificate A, when public convenience and necessity in such territory are not being reasonably served by a certificate holder under this chapter or a common carrier; provided, that when a certificate A is issued to an applicant

over territory which is being served at the time such certificate is granted by the holder of a certificate B, the right of the applicant to operate under certificate A shall not begin until the expiration of the then license year of the holder of the certificate B and the holder of a certificate B shall be preferred in granting a certificate A over the route unless in the judgment of the commission it would not be in the interest of the public service.

In either case the existence of a railroad or other motor vehicle carrier in the territory sought to be served by the applicant shall not be considered by the commission as good cause for refusing the application.

2. 26 S.C. Code Ann. Regs. 103-133(4) (Supp. 2009) provides:

An application for a Certificate of PC&N or to amend a Certificate of PC&N to operate as a carrier of passengers by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to appropriately perform the proposed service, provided however, if an intervenor shows or if the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application. The following criteria should be used by the Commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public:

- a. FIT. The applicant must demonstrate or the Commission determine that the applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T. and S.C.D.P.S safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant and that applicant is financially fit to do business as a certified carrier. The applicant should further certify that he is familiar with all statutes and regulations, including safety regulations governing for-hire motor carrier operations in South Carolina and agree to operate in compliance with these statutes and regulations.

- b. ABLE. The applicant should demonstrate that he has either purchased, leased, or otherwise arranged for obtaining necessary equipment to provide the service for which he is applying. The applicant should also provide evidence in the form of insurance policies or insurance quotes, indicating that he is aware of the Commission's insurance requirements and the costs associated therewith.
- c. WILLING. Having met the requirements as to "fit and able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.
- 3. "The doctrine of [public] convenience and necessity is a relative or elastic theory. The facts in each case must be separately considered and from those facts it must be determined whether public convenience and necessity requires a given service to be performed or dispensed with." State v. Carolina Coach Company, 260 N.C. 43, 53, 132 S.E. 2d 249, 255 (1963).

FINDINGS OF FACT

- 1. American Go Team Services, LLC d/b/a The Go Bus is a Virginia corporation authorized to do business in South Carolina which wishes to provide passenger services over regular routes and schedules throughout the State of South Carolina, and which is fit, willing, and able to perform the services for which it seeks authority. There has been no showing that the public convenience and necessity is already being served, and, based on the seasonal nature of part of this public need, further delay in the granting of this petition would result in missed opportunity and prohibit

the advancement of the public service. The notice provisions of 26 S.C. Code Ann. Regs. 103-132 (Supp. 2009) should be waived.

CONCLUSIONS OF LAW

1. The Applicant has demonstrated that it is “fit, willing, and able” to provide the Class A services for which it seeks authority. Specifically, American Go Team Services, LLC d/b/a The Go Bus has established that it is “fit” by showing that it has no outstanding judgments pending against it, by certifying that it is familiar with the statutes and regulations governing for-hire motor carrier operations in South Carolina, and by further certifying that it will operate in compliance with these statutes and regulations. Further, American Go Team Services, LLC d/b/a The Go Bus has shown it is “able” by establishing that it has the equipment necessary to provide the services for which it seeks authority and that it has quotes for insurance which meets the Commission’s requirements. The Applicant’s “willingness” to provide Class A services in South Carolina is manifested by the submission of the Application.

2. The Commission also concludes that there has been no showing that the public convenience and necessity is already being met by existing services in the area.

3. The notice provisions of 26 S. C. Code Ann. Regs. 103-132 (Supp. 2009) are waived. 26 S.C. Code Ann. Regs. 103-101.2 (Supp. 2009) provides that the Commission’s rules are subject to such exceptions as may be considered just and reasonable as ordered by the Commission in individual cases when strict compliance with any rule or rules produces unusual difficulty and is not in the public interest. We hold that strict compliance with the notice provisions of Regulation 103-132 would produce

unusual difficulty in the present case and is not in the public interest. The Go Bus has noted that its market is dependent on it being able to get into business as quickly as possible so as to prevent missed business opportunities. We hold that this reason meets the criteria for a waiver of our rule. Accordingly, we waive the notice provision.

IT IS THEREFORE ORDERED THAT:

1. The Application of American Go Team Services, LLC d/b/a The Go Bus for approval of a Class A Certificate of Public Convenience and Necessity for the routes set forth above is approved. The notice provisions of 26 S. C. Code Ann. Regs. 103-132 (Supp. 2009) are waived.

2. The Applicant shall comply with all applicable statutes and regulations regarding for-hire transportation in South Carolina.

3. That the Applicant file, or cause to be filed, with the Office of Regulatory Staff (ORS) the proper license fees, proof of liability insurance (i.e. "Form E"), and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by 26 S.C. Code Ann. Regs. 103-100 through 103-241 (Supp. 2009) of the Commission's Rules and Regulations for Motor Carriers, and 23A S.C. Code Ann. Regs. 38-400 through 38-503 (Supp. 2009) of the Department of Public Safety's Rules and Regulations for Motor Carriers, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

4. That the failure of the Applicant to either (1) complete the certification process by complying with the requirements of filing with the ORS proof of appropriate insurance and the payment of license fees and such other information required by law

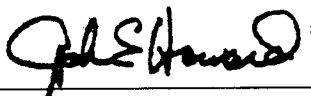
within sixty (60) days of the date of this Order or (2) request and obtain from the Commission additional time to comply with the requirements stated above, may result in the authorization approved in this Order being revoked.

5. That upon compliance with the filing of information as required by S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann. Regs. Vol. 26 (Supp. 2009), as amended, a Certificate shall be issued by the ORS to the Applicant authorizing the motor carrier services granted herein.

6. That prior to compliance with the requirements regarding the filing of certain information with the ORS and receipt of a Certificate, the motor carrier services authorized by this Order may not be provided.

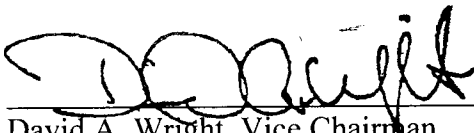
7. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman
(SEAL)